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Joseph A. Sawyer, Jr. Sawyer Law Group LLP P.O. Box 51418 Palo Alto, CA 94303			EXAMINER RIMELL, SAMUEL G	
			ART UNIT 2165	PAPER NUMBER 10
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/731,088
Filing Date: December 05, 2000
Appellant(s): WOLFSON, CHARLES D.

MAILED
OCT 29 2004
Technology Center 2100

Stephen G. Sullivan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 11, 2004.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant holds that the claims stand or fall together. Examiner agrees with this assertion and finds the brief is directed to argument for only one grouping. Claim 1 is the representative claim of the group.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

U.S. Patent 6,058,389 to Chandra et al.; Published May 2, 2000; Filed October 31, 1997.

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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Chandra et al. (U.S. Patent 6,058,389).

Claim 1: Chandra et al. sets forth a database system (overall system of FIG. 3) containing message queues (324 and 200). Multiple chosen functions are provided, such as ENQUEUE (adding a message) and DEQUEUE (removing a message) in order to control the messages in the message queues (See col. 12, lines 62-68; col. 13, lines 1-67; and col. 16, lines 18-30). The ENQUEUE and DEQUEUE are functions that operate in the messaging system but are also implemented in the database system. The chosen functions are utilized and implemented within SQL statements (col. 11, lines 45-49; col. 24, Table 3).

Claim 2: The chosen functions ENQUEUE and DEQUEUE can be added to a database system by creating SQL statements called ENQUEUE and DEQUEUE and parameterizing these statements with the parameters shown in Table 1 (col. 13, lines 1-9) and Table 2 (col. 16, lines 25-32). The ENQUEUE and DEQUEUE functions are thus user defined functions.

Claim 3: The user defined function ENQUEUE functions to place the message on a queue (col. 12, lines 60-67). The user defined function DEQUEUE functions to non-

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destructively retrieve one or all of the message from the queue (col. 16, lines 18-30). The ENQUEUE functions also involves the function of reading the message (FIG. 9A, steps 900-903).

Claim 4: The user defined function ENQUEUE function specifies a service endpoint (Queue Name, described at col. 13, line 5).

Claim 5: The user defined function ENQUEUE specifies a destination (Queue Name described at col. 13, line 5) and delivery policies (Enqueue Options described at col. 13, line 6).

Claim 6: The messaging system may be a publish/subscribe based messaging system (col. 35, lines 39-48).

Claim 7: See remarks for claim 1. Note that the message program means are the messages queues shown in FIG. 2 and the database program means is the database system of FIG. 3.

Claim 8: See remarks for claim 2.

Claim 9: See remarks for claim 3.

Claim 10: See remarks for claim 4.

Claim 11: See remarks for claim 5.

Claim 12: See remarks for claim 6.

Claim 13: See remarks for claim 1.

Claim 14: See remarks for claim 2.

Claim 15: See remarks for claim 3.

Claim 16: See remarks for claim 4.

Claim 17: See remarks for claim 5.

Claim 18: See remarks for claim 6.

(11) *Response to Argument*

Part A of appellant's brief is a replication of selected examiner arguments presented during prosecution. No specific arguments from appellant are presented in this section.

Part B of appellant's brief is an extremely brief summarization of certain features from the Chandra reference (Chandra et al.). No specific arguments are presented.

Part C contains the main focus of appellant's arguments. Appellant first argues that "Appellant fails to see how a logical data structure of a queue table stored in a database file could be interpreted to teach or suggest a system/program means having functionality that can be provided in/utilized in another system" (page 7, second to last line through page 8, lines 1-2 of appellant's brief).

The Examiner is not asserting that the message queue tables are the functionality or "chosen functions" set forth in claim 1. Rather, examiner is asserting that the functions of ENQUEUE (adding a message) and DEQUEUE (removing a message) are the functionalities that correspond to the chosen functions in claim 1. These functions are considered to be "from the messaging system" by reason that they are functions used in the messaging system. These functions operate within an overall database system (the overall system of FIG. 3). Examiner maintains that the limitations of claim 1 are met. In addition, examiner believes that the intended meaning of the claim language "from a messaging system", based on applicant's specification is exactly met by the functionalities of ENQUEUE and DEQUEUE taught by Chandra et al. In appellant's specification, the chosen functionalities are functions used in a messaging system. These are exactly the functionalities implied by the terms ENQUEUE and DEQUEUE. There

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simply does not appear to be any distinction between the chosen functions and the functionalities of ENQUEUE and DEQUEUE.

Appellant argues that the ENQUEUE and DEQUEUE are not provided by the messaging system, but are instead provided by programming languages, namely the C programming language and SQL, or Structured Query Language (page 8, second paragraph of appellant's brief). It is true that the ENQUEUE and DEQUEUE commands are in fact supported by an underlying programming language. However, this does not prevent the functions from being used in a message system or from a messaging system. Programming functions are inherently supported by programming languages.

Appellant argues that the chosen functions ENQUEUE and DEQUEUE are not utilized in SQL statements. Appellant argues that ENQUEUE and DEQUEUE are in fact SQL statements themselves, and thus would not be used in SQL statements (page 8, second and third paragraphs of appellant's brief). These arguments are not correct. The functions ENQUEUE and DEQUEUE are commands that are used in larger SQL statements (col. 11, lines 45-49). ENQUEUE and DEQUEUE are merely the requesting portion of the SQL statement, and are used in a larger overall SQL statement, such as that illustrated in Table 3 (col. 24).

Appellant argues that the claim language of claim 1 call for the chosen function to be used "within" SQL statements, not "with" SQL statements (page 8, third paragraph of appellant's brief). Examiner maintains that the ENQUEUE and DEQUEUE are used "within" SQL statements. Consider for example Table 3 at column 24 of Chandra et al. The Table is an example of one SQL statement. The chosen functions ENQUEUE and DEQUEUE are clearly within the overall statement.

Appellant argues that Chandra et al. fails to disclose a “separately installed messaging system” (page 9, first paragraph, last three lines in appellant’s brief). No such feature is recited in claim 1, which is the claim for consideration with the single claim grouping designated by appellant. Furthermore, no such feature appears in independent claims 7 or 13. The closest claim which appears to address this feature is claim 7, which only calls for a messaging system to be “installed”. Clearly, in Chandra et al. (FIGS. 2-3), such a messaging system is installed.

Appellant argues that Chandra et al. does not teach the accessing of a message system from a database system (page 9, second paragraph of appellant’s brief). This argument is incorrect. As seen in FIG. 3, the clients (301) and (302) are the parties that access the message system. The message system (message queue tables 324) are accessed via the database server, which is part of the database system. In Chandra et al., the message system is accessed by accessing the database system. This is clearly shown in FIG. 3 of Chandra et al.

Appellant argues that examiner has not given consideration to the term “from” as it is used in the phrase “from a messaging system” as defined in claim 1 (page 9, last line to page 10 first line of appellant’s brief) Examiner has given consideration and weight to this term. In particular, examiner concludes that the term “from a message system” means that functions operate on a message system or are used in a message system. This is hardly a “gross misinterpretation” (page 10, line 2 of appellant’s brief) of the claim language presented, but rather a reasonable interpretation based on a literal reading of the method steps and elements presented.

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Appellant presents further arguments regarding claims 3, 9 and 15 (page 10, second paragraph of appellant's arguments). Appellant argues that Chandra et al. lacks a separate messaging system accessed by a database system. However, none of the independent claims call for a "separate" messaging system. In addition, Chandra et al. clearly teaches a messaging system (324 in FIG. 3) and distinct database system (FIG. 3) which gains access to the messaging system. I

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Sam Rimell
Primary Examiner
Art Unit 2165

October 28, 2004

Conferees



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